

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 228

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY SENATOR DYSON

Introduced: 2/27/08

Referred: Community and Regional Affairs, State Affairs

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to and permitting certain uses and occupancies of real property that do**
2 **not comply with changes made to municipal land use ordinances."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 29.10.200 is amended by adding a new paragraph to read:

5 (64) AS 29.40.045 (regulation of the use of real property).

6 *** Sec. 2.** AS 29.40 is amended by adding a new section to read:

7 **Sec. 29.40.045. Certain uses of real property permitted.** (a) Subject to (b)
8 and (c) of this section, if an ordinance governing the use and occupancy of real
9 property is adopted, amended, or repealed and the property was being used for a
10 purpose previously permitted but that the change in ordinance prohibits, that use must
11 be allowed to continue unless the use constitutes a nuisance recognized under common
12 law.

13 (b) If an ordinance governing the use and occupancy of real property is
14 adopted, amended, or repealed and the property was being used for a home business

1 previously permitted but that the change in ordinance prohibits, the property must be
2 allowed to continue to be used for the home business until ownership of the property is
3 transferred. The owner of the real property may apply to the municipality to change or
4 expand the home business, and the proposed change or expansion shall be permitted
5 unless, after considering all significant factors, including those described in (a) of this
6 section, the municipality determines that the proposed change or expansion would
7 have a negative effect on neighbors, the neighborhood, or the area in which the
8 property is located.

9 (c) If an ordinance governing the use and occupancy of real property is
10 adopted, amended, or repealed, property owned by a resident who is at least 65 years
11 of age, is a disabled veteran, or is a disabled person may not be required to conform to
12 the change in ordinance for 10 years from the effective date of the ordinance or until
13 ownership of the property is transferred, whichever occurs first. In this subsection,

14 (1) "disabled person" means a person who has a physical or mental
15 disability or a physical or mental impairment, as defined in AS 18.80.300;

16 (2) "disabled veteran" has the meaning given in AS 29.45.030(i).

17 (d) This section applies to home rule and general law municipalities.